UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

OFFICE OF
ADMINISTRATION
AND RESOURCES
MANAGEMENT

February 5, 2016

MEMORANDUM

SUBJECT: Extension of Gold King Mine Deviation

FROM: Howard F. Corcoran
Director, Office of Grants and Debarment

TO: Carl E. Edlund, P.E., Superfund Director, Region 6
Martin Hestmark, Superfund Director, Region 8
Enrique Manzanilla, Superfund Director, Region 9

I am responding to your January 27, 2016 request for a sixty day extension to the Gold King Mine deviation OGD approved on November 2, 2015. That deviation provided an exception from the requirements in 40 CFR 35.6275, Period of Availability of Funds, 40 CFR 35.6200, Eligibility for Removal Cooperative Agreements and 2 CFR 1500.8, Revision of budget and program plans.

BACKGROUND

The Gold King Mine deviation OGD approved on November 2, 2015 authorized EPA to include in the approved budgets of specified Subpart O cooperative agreements, reasonable, allowable and allocable pre-award costs incurred up to 180 days prior to the signed award. The spill occurred on August 5, 2015. Non-federal entities incurred costs in the days immediately after the spill. Absent an extension, EPA risks not being able to reimburse non-federal entities for certain response costs in connection with cooperative agreements awarded more than 180 days after the spill. Impacted communities may not be able to work on emergency or time-critical activities due to the lack of adequate funding. Such results would not achieve EPA's goal of helping communities affected by the spill to fully recover from its environmental and economic impacts.

Regions 6, 8, and 9 believe that a sixty day extension of the original deviation is necessary to execute the cooperative agreements while meeting the substantive requirements of the regulations due to the nature of the work.

ACTION

I have carefully reviewed your deviation request. Based on the information provided, and with the concurrence of the Office of Land and Emergency Management, I am approving the request to: 1) allow for additional time to complete ongoing negotiations with State, Tribal and Political Subdivisions affected by the Gold King Mine Waste Water Spill; 2) ensure consistency between EPA regions through

ongoing coordination; and 3) allow for additional time lost during the Compass Version Enhancement. With this approval, EPA will be authorized to reimburse recipients for pre-award costs incurred up to 240 days prior to the signed award, to the extent that such costs would have been allowable if incurred after the date of the Federal award and only with the written approval of the EPA Award Official. This extension should be sufficient to allow the Agency to complete negotiations with applicants and award the cooperative agreements.

If you have any questions about this approval, please contact Alexandra Raver at (202) 564-5296.

cc: Barry Breen, Senior Resource Official, Office of Land and Emergency Management
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